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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,787	10/11/2001	Martin Kleban	Mo-6451/LcA 34,705	9589

34947 7590 11/25/2003

BAYER CHEMICALS CORPORATION
PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH, PA 15205-9741

EXAMINER

HESS, BRUCE H

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 11/25/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

CLO 7

Office Action Summary

Application No.

09/975,787

Applicant(s)

Kleban et al.

Examiner

Bruce Hess

Group Art Unit

1774

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on

9-15-03 (Response)

☒ This action is FINAL.

- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s)

1-14

is/are pending in the application.

Of the above claim(s)

is/are withdrawn from consideration.

☐ Claim(s)

is/are allowed.

☒ Claim(s)

1-14

is/are rejected.

☐ Claim(s)

is/are objected to.

☐ Claim(s)

are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

1. Claims 1-14 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Nehen et al. for the reasons of record

Claims 1-14 are again rejected under the judicially created doctrine of obviousness – type-doubling patenting as being unpatentable over claims 1-9 of U.S.P. 5,635,211 for the reasons of record.

The In re Antonie result-effective variable concept is an exception to the rule established in In re Aller, not a prerequisite to its application. When applicant establishes that a parameter is result-effective, the prima facie case of obviousness established under In re Aller is rebutted. In the present case, there have been no showings by applicants that the isocyanurate content and the weight % of the walls based on the total weight of the microcapsules are result-effective.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

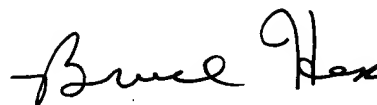
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1774

Any inquiry concerning this communication should be directed to Bruce Hess at telephone number (703) 308-2402.

B. Hess/lap

November 4, 2003

A handwritten signature in cursive script that reads "Bruce Hess". The signature is written in black ink and is positioned to the right of the typed name.

BRUCE H. HESS
PRIMARY EXAMINER